

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2007-009070

02/22/2011

HONORABLE HELENE ABRAMS

CLERK OF THE COURT

K. Depue

Deputy

IN RE THE MARRIAGE OF
JAMES W ARMSTRONG

DAVID L ROSE

AND

ASHLEY HOWARD BARNARD

HELEN R DAVIS

JUDITH M WOLF

RULING

An evidentiary hearing was conducted on two issues. The first issue related to Petitioner's objections to the Parenting Coordinator's report dated November 12, 2010. The second issue was whether to reappoint Judith Wolf as the Parenting Coordinator. Mother, Father and Ms. Wolf testified. The court took the matter under advisement. After consideration of the testimony, the exhibits and the arguments of counsel, the court finds as follows:

This marriage was dissolved just over two years ago. The road to dissolution was contentious. The events and allegations subsequent to the dissolution have been difficult for Father. He has been investigated and evaluated repeatedly. None of the allegations were supported or substantiated. The relationship between Father and his daughters was negatively impacted. Interventionist services were implemented. Agreements were reached. A Parenting Coordinator was appointed.

In October, 2010, an incident occurred between Dad and Madeline. Apparently Madeline was playing with Dad's glasses and refused to give them back. Dad grabbed Madeline's wrist. Madeline stabbed him with a pencil. Dad then twisted her wrist and Madeline let go of the glasses. Madeline and Zoe ran to the bathroom and called Mom who picked the girls up and took them to her home.

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The Parenting Coordinator was contacted. Ms. Wolf determined that Dad's parenting time needed to be suspended. She advised the parents of her decision. The court was advised of this when the November 12, 2010 report was received. Father requested an expedited hearing which was set in December.

Father objected to the suspension of his time and the recommendations of the Parenting Coordinator. At this time, Father and Mother agree that most of the recommendations have been completed by Father. Specifically,

1. Father began therapy with Marcus Earle, Ph.D.
2. The children continue to be monitored for their medications by agreement of the parties. Therefore, the court will not consider the request to allow Mother sole decision making authority over the children's medical and psychological treatment.
3. Father signed a release for the Parenting Coordinator to speak with the girls' treating psychologist, Lisa Elder Outhier, Ph. D.
4. Father has disengaged from Zoe and Madeline's Facebook accounts.

The remaining issue according to Ms. Wolf is: Immediate orders necessary to protect the children from an abuse situation which is under investigation.

According to the testimony, it appears that there will be no further action taken by the police or Child Protective Services. If true, then there is no "abuse" situation under investigation and no orders are immediately necessary. This should resolve the issue but there are other issues the court believes should be addressed.

The court is very concerned about the actions of the Parenting Coordinator who, without approval of the court, suspended all Father's parenting time with both children. The authority granted to the Parenting Coordinator is found in Rule 74, Arizona Rules of Family Law Procedure. While there are some circumstances allowing a Parenting Coordinator to determine time sensitive issues, for example those listed in the Order appointing the Parenting Coordinator, Rule 74 (E) makes it very clear that the Parenting Coordinator does not have the authority to make a recommendation affecting a change in custody or a substantial change in parenting time.

"In the event the Parenting Coordinator determines parenting or family issues or circumstances exist that are significantly detrimental to the welfare of the children and that a change in custody or a substantial change in parenting time is warranted, the Parenting Coordinator may submit the Parenting Coordinator's concerns in writing to the parties and the court." Rule 74 (E).

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Instead of following the requirements of the Rule and the order of reappointment, the Parenting Coordinator suspended all Father's parenting time on October 20, 2010. The report to the court advising of her actions was not filed until November 12, 2010. While the court recognizes that the Parenting Coordinator might have believed that immediate action needed to be taken, the Parenting Coordinator was without the authority to make a decision that eliminated this Father's parenting time.

The Parenting Coordinator and Mother are concerned about Father's anger issues. Based on the seemingly unfounded allegations and needless investigations and evaluations, Father may have good reasons to be angry. Father should address this issue with Dr. Earle to process his concerns and find constructive outlets for them.

The issue still remains as to what parenting time is appropriate under the circumstances described at the hearing. Zoe has indicated she does not want to spend any time with Father. Madeline has spent time with Father and seems to enjoy their time together.

Addressing the reestablishing of Father's relationship with his children will require the services of a therapeutic interventionist. Father is agreeable to this. If the parties agree on the appointment of a new Therapeutic Interventionist, the court will sign the stipulation for the appointment. If the parties cannot agree on the appointment of a new Therapeutic Interventionist, a blind list of four names will be provided to the court (2 from each side without any indication as to which party suggested that professional) **by March 1, 2011**. The court will then select a new Therapeutic Interventionist and sign the appropriate order.

Both children will participate in the therapeutic intervention.

Father will continue to see Madeline one weekend day from noon to 8 p.m. beginning with Saturday, March 5, 2011. The weekend days will alternate, Saturday one week and Sunday the next week. The Therapeutic Interventionist will address expanding Father's parenting time and/or overnights after the completion of three sessions. A report will be provided to the court and the parties with recommendations.

Zoe will also participate in the Therapeutic Interventionist sessions. The court understands her position at this time but the court believes that it is not in Zoe's best interest to make this type of determination at this time. The Therapeutic Interventionist will also include in the report any suggestions to assist in the reestablishing of the father-daughter relationship with Zoe.

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Because of the concerns regarding the actions of the Parenting Coordinator in this case, the court will not reappoint Ms. Wolf. The court believes the services of a Parenting Coordinator are necessary and a new Parenting Coordinator will be appointed by separate minute entry.

Mother made additional requests that were not pled including a request for attorney's fees, a reallocation of fees, and splitting the costs of the Therapeutic Interventionist.

Because the court is appointing a Therapeutic Interventionist to assist Father and the girls, it is appropriate to apportion the fees. It is ordered that the parties will share the costs of the Therapeutic Interventionist 50/50.

To the extent there are other new costs associated with treatment for Father or the children, they will be shared 50/50. All previous orders addressing apportionment of fees are affirmed.

The request for attorney's fees and reallocation of other costs is denied.

Lastly, there was a suggestion that this case was sealed. Documents were ordered sealed on April 14, 2008 and June 3, 2008 but it appears that the case has not been sealed.

IT IS ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

/ s / HON. HELENE ABRAMS

HONORABLE HELENE ABRAMS
JUDICIAL OFFICER OF THE SUPERIOR COURT

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.